

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDELMAN ARTS, INC.,

Plaintiff,

17-cv-4789 (JGK)

- against -

MEMORANDUM OPINION
AND ORDER

REMKO SPOELSTRA, JASON HOLLOWAY, SSR
INVEST SWITZERLAND, SWISS BUSINESS
COUNCIL and JOHN DOE,

Defendants.

JOHN G. KOELTL, District Judge:

The Court has reviewed the Report and Recommendation of Magistrate Judge Netburn dated January 11, 2021. ECF No. 121. The Magistrate Judge found that the defendants were liable to the plaintiffs for \$5,700,000 million, of which \$1,000,000 should be retained in escrow by the Court, together with pre-judgment interest.

No objections have been filed to the Report and Recommendation, and the time for any objections has passed. In any event, the Court finds that the detailed Report and Recommendation is well reasoned and correct and should be adopted with respect to the award of damages. However, with respect to the prejudgment interest, the Report and Recommendation erred in calculating the amount due based on the prejudgment period from December 15, 2016 to April 24, 2019, the date the Court determined that a default judgment should be

entered against the defendants. The prejudgment period does not end until the Court enters the final judgment. See FTI Consulting, Inc. v. Rossi, 332 F. Supp. 2d 677, 678 (S.D.N.Y. 2004) (concluding that the prejudgment interest period did not end until the date that the judgment was entered). Accordingly, the prejudgment interest must be adjusted to reflect the period through the entry of the judgment.

The Court therefore adopts the Report and Recommendation in all respects except the calculation of the prejudgment interest. The Clerk is directed to enter judgment in favor of the plaintiffs and against the defendants in the amount of \$5,700,000, of which \$1,000,000 is to be retained in escrow by the Court until the plaintiff presents evidence that the plaintiff has satisfied the judgment against it in the amount of \$1,000,000 entered in Edelman Arts, Inc. v. N.Y. Art World, LLC, No. 652017/2018, 2019 WL 6700444 (N.Y. Sup. Ct. Dec. 9, 2019). The judgment should also include prejudgment interest calculated by the Clerk at the annual rate of nine percent from December 15, 2016 to the date judgment is entered. The Clerk is also directed to close all pending motions and to close this case.

SO ORDERED.

**Dated: New York, New York
March 7, 2021**

**/s/ John G. Koeltl
John G. Koeltl
United States District Judge**